S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

March 12, 2009

Introduced by Sens. GRIFFO, LARKIN, LIBOUS, MORAHAN, SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to enacting the residential clean heat and power efficiency act of 2009

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and cited as the "residential clean heat and power efficiency act of 2009".

S 2. Legislative intent. The legislature hereby finds it is in the public interest, in order to further residential energy efficiency, to encourage residents to achieve significantly improved energy use efficiency and reduced pollutant emissions in meeting their needs for both heat and electric power through the use of cogeneration technology.

S 3. Section 606 of the tax law is amended by adding a new subsection (g-3) to read as follows:

(G-3) RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT CREDIT. (1) GENERAL. AN INDIVIDUAL TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT EXPENDITURES. THIS CREDIT SHALL NOT EXCEED THREE THOUSAND FIVE HUNDRED DOLLARS PER UNIT WITH RESPECT TO ANY TAXABLE YEAR. THE CREDIT PROVIDED FOR HEREIN SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR IN WHICH THE EQUIPMENT IS PLACED IN SERVICE.

(2) QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT EXPENDITURES. (A) QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT EXPENDITURES ARE THE COSTS, INCURRED ON OR AFTER JULY FIRST, TWO THOUSAND NINE, ASSOCIATED WITH THE PURCHASE OF ON-SITE ELECTRICITY GENERATION SYSTEMS, PROVIDING A RATED BASELOAD CAPACITY OF NO MORE THAN TEN KILOWATTS OF ELECTRICITY, WHICH ARE LOCATED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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IN THIS STATE AT THE TIME THE QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT IS PLACED IN SERVICE.

(B) QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT EXPENDITURES SHALL ALSO INCLUDE COSTS, INCURRED ON OR AFTER JULY FIRST, TWO THOUSAND NINE, FOR MATERIALS, LABOR FOR ON-SITE PREPARATION, ASSEMBLY AND ORIGINAL INSTALLATION, ENGINEERING SERVICES, DESIGNS AND PLANS DIRECTLY RELATED TO CONSTRUCTION OR INSTALLATION AND UTILITY COMPLIANCE COSTS.

(C) THE TERM "QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT" SHALL MEAN AN INTEGRATED, COGENERATING RESIDENTIAL BUILDING HEATING AND ELECTRICAL POWER GENERATION SYSTEM, OPERATING ON ANY FUEL AND OF ANY APPLICABLE ENGINE, FUEL CELL, OR OTHER TECHNOLOGY, WITH A RATED CAPACITY OF NOT MORE THAN TEN KILOWATTS ELECTRIC AND ANY THERMAL OUTPUT THAT AT FULL LOAD HAS A DESIGN TOTAL FUEL USE EFFICIENCY OF NOT LESS THAN EIGHTY PERCENT AND THAT HAS A MAXIMUM RATIO OF USEFUL HEAT ENERGY OUTPUT TO ELECTRIC OUTPUT OF TEN, THAT MAY WORK IN COMBINATION WITH SUPPLEMENTAL OR PARALLEL CONVENTIONAL HEATING SYSTEMS, THAT IS MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

(D) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER FINANCE CHARGES.

(3) MULTIPLE TAXPAYERS. WHERE RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT IS PURCHASED AND INSTALLED IN A PRINCIPAL RESIDENCE SHARED BY TWO OR MORE TAXPAYERS, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR EACH SUCH TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT CONTRIBUTED BY EACH TAXPAYER.

(4) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE INCURRED IN PURCHASING AND INSTALLING RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT, THE AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH WAS USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT AND WHICH WAS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER, SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

(5) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. Section 1115 of the tax law is amended by adding a new subdivision (gg) to read as follows:

(GG) RECEIPTS FROM THE RETAIL SALE OF RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT AND OF THE SERVICE OF INSTALLING SUCH SYSTEMS SHALL BE EXEMPT FROM TAXES IMPOSED BY THIS ARTICLE. FOR THE PURPOSES OF THIS SUBDIVISION, "RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT" MEANS AN INTEGRATED, COGENERATING RESIDENTIAL BUILDING HEATING AND ELECTRICAL POWER GENERATING GENERATION SYSTEM, OPERATING ON ANY FUEL AND OF ANY APPLICABLE ENGINE, FUEL CELL, OR OTHER TECHNOLOGY, WITH A RATED CAPACITY OF NOT MORE THAN TEN KILOWATTS ELECTRIC AND ANY THERMAL OUTPUT THAT AT FULL LOAD HAS A DESIGN TOTAL FUEL USE EFFICIENCY OF NOT LESS THAN EIGHTY PERCENT AND THAT HAS A MAXIMUM RATIO OF USEFUL HEAT ENERGY OUTPUT TO ELECTRIC ENERGY OUTPUT OF TEN,

THAT MAY WORK IN COMBINATION WITH SUPPLEMENTAL OR PARALLEL CONVENTIONAL HEATING SYSTEMS, THAT IS MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2009; and provided further that section four of this act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, next commencing at least 90 days after this act shall have become a law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law.